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UPPAC



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NOTICE TO PARENTS— What and How Often?

Each year, schools have to send notice to parents about a myriad of policies and procedures. What notice is actually required by law, and how often does the law require such notice? Below is a compilation of laws and rules that establish a statutory requirement for notifying parents, divided according to how often the notice is required.

Requirements for Annual Notice

- Directory Information Notice (along with FERPA guideline, as required by the Family Policy Compliance Office of the U.S. Dep't of Ed.)
- Acceptable Use for Internet and Network Access (as required by UEN in order to get technology monies)
- Student fee schedules and fee waiver policies, which should be included in registration materials each year (Utah Code 53A-12-104; R277-407)
- Notice to parents of students placed in language acquisition programs at the beginning of each school year, or no later than 30 days after identification (R277-716-4G)
- A School Emergency Response Plan, to be sent at the beginning of each school year (R277-400-4)

Notice Only Upon Enrollment

- Suspension/expulsion policies (Utah Code 53A-11-903). The law specifically states this notification is required only upon enrollment.

Notice for Specific Occurrence or Event

- If a school is designated as a persistently dangerous school, notification to parents is required by Aug. 15 of the year of designation (R77-483-6).
- If a school fails to meet its "Annual Measurable Achievement Objectives" for English Language Proficiency performance, notification to parents is required within 30 days of receipt of the school's accountability report from USOE (R277-716-G4).
- If a student reads below grade level, notification and information about appropriate interventions are required by February 15, of each year (R 277-403-3B, 4C).
- If a student has an IEP, notice to parents of the availability of a scholarship to attend a private school through the Special Needs Scholarship Program is required no later than 30 days after the student initially qualifies for an IEP, and no later than Feb. 1 to all students with IEPs on an annual basis (R277-602-4E).
- Prior to Sex Ed, the common parental notification form created by the State Board of Education (or a form that satisfies all the legal and regulatory criteria) must be sent home (Utah Code 53A-13-101(3)(a)(ii), and R277-474-3C).
- If a student is truant more than 5 days, notice of trancies MAY be issued to parents. (Utah Code 53A-11-101.7(3)(a)). Notice is not required, but is allowed.
- Notice of a student's disruptive behavior. Included in the notice should

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JANUARY UPPAC CASES

The Utah State Board of Education suspended the license of Michael Pettit for theft from the metal shop of which he was employed.

The license of Cheryl Thompson was also suspended for driving under the influence.

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be the number of disruptions, school resources available and cooperation from appropriate juvenile court in accessing student school records (R277-609-5).

Notice Required, but No Law/Rule Regarding When or How Often

- Notice to home school parents of any state testing rules (R277-604-4D).
- Students and parents should be “adequately notified” of lawful exemptions to the requirement to participate in reciting the Pledge of Allegiance (R277-475-5).
- Head injury and concussion policy must be sent to parents, and parents must sign permission slips before allowing students to participate in a sporting organization (which could include dodgeball at recess) (Utah Code 26-53-201).
- Notification to custodial parent if student is injured or becomes ill during school day (Utah Code 53A-11-205).

General Policies

These are policies that the school is responsible for creating and maintaining, but there is no law or rule that specifically requires notification. These policies should be disseminated to parents, however, on at least an annual basis and any time there is an update to the policy.

A TAKE-HOME LESSON

2 Kansas recently reviewed an appeal from a district court decision affirming the Kansas State Board of Education’s decision not to grant a license to an individual who was charged and convicted with felony theft five years previously. Mr. Wright was initially an attorney when he was convicted of four counts of stealing money. He was also convicted of perjury for lying to an investigator during his law license disbarment procedure. Wright served a prison sentence of one year, and the convictions were expunged in 2009. Despite the expungement, the Kansas Professional Practices Commission recommended to the Board that Wright’s application for an educator license should be denied because it believed his convictions and disbarment as an attorney violated the public trust and confidence placed in teachers.

The Board adopted the Commission’s recommendation and denied Mr. Wright a license. Mr. Wright filed suit in district court, which affirmed the Board’s decision, and Mr. Wright appealed to the Kansas Court of Appeals. Mr. Wright attacked the Board’s decision on three levels: first, that the Board misinterpreted Kansas law allowing the Board to determine a potential educator has been rehabilitated for at least five years. Second, Wright argued that the Board did not have substantial evidence to support its findings that he was not sufficiently rehabilitated. And third, Wright argued that the

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- Publication of school/charter discipline plan (R277-609-3D).
- Truancy policies (R277-607-4B).
- Requirements and limitations for accepting school credits for graduation purposes (R277-705-3A).
- Policies on electronic devices (cell phones, iPods, etc.) (R277-495-4).
- Bullying and hazing policy (R277-613-3). This must be posted on the school website. It is also a good idea to send notice of the policy home to parents or at least a notice of where parents can find the policy online.
- Information and procedures posted on school website regarding entering and exiting charter schools (R277-472-5).
- Notice to parents that a student committed a “prohibited act,” and may be reported to law enforcement. (Utah Code 53A-11-403(2)).
- Notice to parents under State FERPA of surveys, evaluations, treatments that may have sensitive protective questions (Utah Code 53A-13-302(1)).
- Notice to parents if an employee learns of a serious threat to the well being of a student (Utah Code 53A-13-302 (6)).

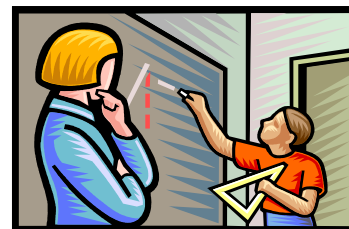
Read more on notices to parents by checking out the [Law and Legislation web page](#).

EYE ON LEGISLATION

What changes to the current law and changes in funding and practice will affect Utah teachers following the 2012 Legislative Session? The Utah Legislature meets for 45 days beginning in January of every year. In past years, there have been approximately 100 bills proposing changes for public education each year. Some of the changes are minor (student vision screening must take place by a designated screener); some changes are significant (teachers and counselors have specific directives about how they inform parents of students’ behavioral problems). Like in the old axiom, change is constant.

Changes in Community Councils

Legislators and citizens are interested in school community councils because they involve so many of us at a personal level where our own children attend schools. Proposed changes include (1) allowing school employees to be parent members of community councils where



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Board's decision was arbitrary and capricious and lacked foundation in fact. The Court of Appeals held against Wright on each of these arguments, noting that Wright did not meet his burden to show the Board had erroneously applied the law; that the evidence was sufficient to show that Wright showed no remorse nor understanding of the seriousness of his crime; and that the comments Wright relied on to show evidence of arbitrary and capricious decision-making were mere public musings of the Board members in grappling with the information at hand.

The Court issued a concurring opinion, in which Judge Atcheson agreed with the majority but only because of the "limited role courts play in reviewing decisions of administrative bodies." He opined that the Board supported its determination with "factual distortions, specious legal interpretations, and lofty sounding rhetoric signifying little significance."



Take-Home Lesson: While courts are highly deferential to schools and to administrative agencies like a school board, it is still necessary to base decisions on fact, sound reasoning, and solid supportive evidence.

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their children attend school except at the schools where they are employed (HB 213 by Rep. Perry) and (2) Community Council Revisions, which exempts community councils from the Open and Public Meetings Act, but requires extensive record keeping. Another bill by Sen. Pat Jones intends to encourage parent involvement in public schools. This seems like a great idea—so long as parent committees do not trump locally elected school boards in making school governance decisions.

Computers in Schools

Rep. Hughes is sponsoring a bill (HB 15) that would require school districts and charter schools to give standardized tests via computers beginning with the 2014-15 school year. The bill requests an appropriation that would partially cover the cost of the computers and the testing. Rep. Menlove is sponsoring a bill that would restructure the governance of the Utah Education Network, the valuable resource that provides support for computers throughout the Utah education system—higher education, public education and technical courses. This bill would not disrupt the excellent services that schools now receive through UEN. Rep. Daw is sponsoring a bill that would allow charter schools to hold their public "school meetings" electronically. Perhaps this would also be an excellent process for community council meetings in rural areas? Rep. Osmond is sponsoring a bill that would give school districts and charter schools grants to increase their capacity to carry out computerized testing.

Other Interesting Bills

Other bill proposals include making it crystal clear in state statute that teachers can suggest and parents can provide school supplies for elementary school classrooms (Rep. Powell, HB 62); requiring school districts to re-bid their employee insurance plans every three years (Rep. Bird, HB 24); and allowing school districts to reduce class size in grades K-3 by adding trained paraprofessionals to classrooms; and a resolution (that would have to be approved by a vote of the people!) proposing to move the governance of public education from the publicly elected State Board of Education to the Governor's Office (SJR 5 by Sen. Stuart Reid).

Public education is an awesome, flexible, enduring system. For a limited amount of funding, the system provides professional instruction to all children living within Utah. For the most part, teachers are well-prepared and accepting of all children. Somehow, the system endures literally fifty changes each school year due to bills and funding decisions made by elected legislators. As practicing, knowledgeable teachers and administrators, we can positively influence these changes. Consider calling or e-mailing your legislators to provide your insight about this great system and the profession of education.

UPPAC CASE OF THE MONTH

Drinking alcohol is legal for anyone over the age of 21 in the state of Utah. Any educator who is over 21 can drink. Drinking at a party, at a bar or restaurant, or at home is perfectly okay for adult educators. Drinking with family and drinking with friends is not a problem. Drinking at night or on the weekends, as long as it does not affect job performance, is the adult educator's business.

However, drinking at work, providing alcohol to students, or drinking and driving are big no-no's, and will likely result in job loss and possible license suspension. While these improprieties may seem obviously wrong to some, they are not so obvious to all, because educators are taking their alcohol to inappropriate places

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and to new levels of wrongness even today.

Most private companies have policies in place against drinking at work, for obvious reasons. When your work place is a school and your patrons are children, drinking on the job has heightened consequences. One educator lost her license when she showed up to her fourth grade class clearly intoxicated and unable to take charge of her students. On another occasion, serious allegations were made of mixing a soft drink with alcohol and leaving the drink unattended on the teacher's desk. Allegations of drinking alcohol + teaching kids = major ethical violation and likely loss of job and license.

Providing alcohol to students is another major ethical violation.

4 Nearly all elementary and secondary education students are under the age of 21, which means they are not of legal drinking age. Therefore, in addition to the ethical problems involved with furnishing alcohol to students, it is illegal, a Class A misdemeanor. This should never, ever happen.

While drinking at school and giving students alcohol are rare cases for UPPAC, drinking and driving, unfortunately, is a more common problem among Utah educators. Some believe that what happens away from school, stays away from school. That is not the case with education, as the responsibility of being a positive role model goes with you when you leave school. Breaking the law by drinking and driving is a grave failure of that responsibility.

Drinking responsibly is wise advice for any adult, but as an educator, the consequences for being irresponsible with your alcohol are significantly greater.



YOUR QUESTIONS

Q: I'm a teacher at a charter school. My brother wants his kids to come to my charter school. Can I be the guardian of his children for purposes of getting the kids on a priority list for admission?— *Charter School Teacher*

A: No. The law providing for priority admissions to charter school applicants applies strictly to parents who are employees of the charter school, not aunts, uncles, cousins, or grandparents. In fact, the law does not make allowance for the employee to be legal guardian to others' children. Only children of parents who are employees at the school receive priority in admissions to charter schools.

Q: What is the school's liability for my daughter, a student at the school, engaging in sexual activity with another student, while at school during school hours? — *Concerned Parent*

A: Schools are charged with providing reasonable supervision of their students and will be liable if negligent in that responsibility. This does not mean, however, that a school must have eyes in every dark corner of campus, and where a school has provided reasonable supervision, it is not liable for sexual acts committed consensually between two of its students. Even if one of the students did not consent, the school is not liable unless it either had reason to know in advance of the situation and did nothing to stop it, or unless it created the circumstances which gave rise to the incident.

Q: An 18-year-old senior at the school

where I am principal was charged with attempted sexual assault for an incident that occurred off campus and over Christmas break. The victim and her family obtained a restraining order against the student and are now asking me to kick the student out of school. Can I and should I do this?—*Principal*

A: If the student has not committed any violation of school policies while at school, you do not have grounds to suspend or expel the student. However, if the restraining order prohibits the student from being at school when the victim is present, it is enforceable against him and law enforcement may ask him to leave campus. While you may talk to the student and let him know that he is violating the restraining order by being there, it is not the school's responsibility to kick him out.

However, if a student molested another student during school hours, the resident school should be vigilant— even as the students grow up and advance to other schools. The school/district remains responsible for the student's safety from the molester. In addition, the school has a responsibility to treat confidently the records of both students.

Q: Our charter school wants to take our students skiing as a reward for students' hard work. Do we need to offer fee waivers for the activity?— *Charter School Administrator*

A: Yes. A school must provide for adequate waivers or other provisions in lieu of fee waivers to ensure that no student is denied the opportunity to participate in a school-sponsored or supported activity because of an inability to pay a fee (Rule 277-407-6). Choose your student rewards prudently!

WHAT IS UPPAC?

UPPAC is a committee of nine educators and two community members charged with maintain and promoting a high standard of professional conduct and ethics among Utah teachers. It is advisory to the Utah State Board of Education in making recommendations regarding educator licensing and may take appropriate disciplinary action regarding educator misconduct.

The Government and Legislative Relations Section at the Utah State Office provides information, direction and support to school districts, other state agencies, teachers and the general public on current legal issues, public education law, educator discipline, professional standards, and legislation.

Our website also provides information such as Board and UPPAC rules, model forms, reporting forms for alleged educator misconduct, curriculum guides, licensing information, NCLB information, statistical information about Utah schools and districts and links to each department at the State Office.